

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESale PRICE
LITIGATION

) MDL No.1456

) Civil Action No. 01-CV-12257-PBS

) Judge Patti B. Saris

THIS DOCUMENT RELATES TO:
ALL CONSOLIDATED PRIVATE CLASS
ACTIONS

) Chief Magistrate Judge Marianne B. Bowler

**TRACK TWO DEFENDANTS' MOTION TO SET HEARING ON INDIVIDUAL
DEFENDANT OPPOSITIONS TO CLASS CERTIFICATION**

The Track Two Defendants hereby request that the Court set a hearing date for presentation of individual defendant arguments on class certification. At last week's class certification hearing for Track Two, the Court observed that determining the Article III standing, typicality, and adequacy of the proposed class representatives requires an individual company-by-company analysis. The Court further indicated that it was not yet in a position to perform that analysis, but that it would be receptive to a possible follow-up hearing for those Track Two Defendants who wished to address individual issues.

A separate hearing will allow plaintiffs and the Track Two Defendants to address the status of each of the proposed class representatives based on their individual drug purchases. The Track Two Defendants submit that such a hearing will provide an appropriate opportunity for the parties and the Court to efficiently and effectively review the core issues of the plaintiffs' Article III standing and their typicality and adequacy to serve as class representatives under Fed. R. Civ. P. 23.

WHEREFORE, the Track Two Defendants request that the Court set a hearing date and time to address individual defendant arguments on class certification for Track Two.

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and on behalf of the following Track Two
Defendants:

Abbott Laboratories, Amgen Inc., Aventis
Pharmaceuticals Inc., Baxter Healthcare
Corp., Baxter International Inc., Bayer
Corporation, Dey, Inc., Fujisawa Healthcare
Incorporation, Fujisawa USA, Inc., Hoechst
Marion Roussel, Inc., Immunex
Corporation, Pfizer, Inc., Pharmacia Corp.,
Pharmacia & Upjohn, Sicor, Inc. f/k/a
Gensia, Inc., Gensia Sicor Pharmaceuticals,
Inc., Sicor Pharmaceuticals, Inc., Watson
Pharmaceuticals, Inc., and ZLB Behring
L.L.C.

Dated: September 22, 2006

CERTIFICATION PURSUANT TO LOCAL RULE 7.1

Pursuant to Local Rule 7.1(a)(2), the undersigned counsel hereby certifies that on September 22, 2006, Counsel for the Track Two Defendants conferred with Counsel for Plaintiffs on this Motion. Plaintiffs indicated that they would not assent to this Motion.

/s/ Michael DeMarco
Michael DeMarco

CERTIFICATE OF SERVICE

I hereby certify that on September 22, 2006 I caused a true and correct copy of the foregoing to be served on all counsel of record by electronic service pursuant to Case Management Order No. 2 entered by the Honorable Patti B. Saris in MDL 1456.

/s/ Michael DeMarco
Michael DeMarco